

(3) Any refiner owned and controlled by an Alaska Regional or Village Corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601) is not considered an affiliate of such entity, or with other concerns owned by such entity, solely because of their common ownership.

(c) Notwithstanding the provisions of paragraph (a) of this section, a refiner that reactivates a refinery that it had previously operated, and that was shut down or non-operational for the entire period between January 1, 2005 and December 31, 2005, may apply for small refiner status in accordance with the provisions of § 80.1340.

§ 80.1339 Who is not eligible for the provisions for small refiners?

The following are not eligible for the hardship provisions for small refiners:

(a) A refiner with one or more refineries built after December 31, 2005.

(b) A refiner that exceeds the employee or crude oil capacity criteria under § 80.1338 but that meets these criteria after December 31, 2005, regardless of whether the reduction in employees or crude capacity is due to operational changes at the refinery or a company sale or reorganization.

(c) Importers.

(d) A refiner that produce gasoline other than by processing crude oil through refinery processing units.

(e)(1) A small refiner approved under § 80.1340 that subsequently ceases production of gasoline from processing crude oil through refinery processing units, employs more than 1,500 people, or exceeds the 155,000 bpcd crude oil capacity limit after December 31, 2005 as a result of merger with or acquisition of or by another entity, is disqualified as a small refiner, except that this shall not apply in the case of a merger between two previously approved small refiners. If disqualification occurs, the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(2) Except as provided under paragraph (e)(3) of this section, any refiner whose status changes as specified in paragraph (e)(1) under this paragraph (b) shall meet the applicable standards of § 80.1230 within 30 months of the disqualifying event for all its refineries.

However, such period shall not extend beyond December 31, 2014.

(3) A refiner may apply to EPA for an additional six months to comply with the standards of § 80.1230 if it believes that more than 30 months will be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time. EPA will base its decision to approve additional time on the information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond December 31, 2014.

(4) During the period provided under paragraph (e)(2) of this section, and any extension provided under paragraph (e)(3) of this section, the refiner may not generate gasoline benzene credits under § 80.1275(b)(3) for any of its refineries where under § 80.1342 the refiner was previously allowed to defer compliance with the standards in §§ 80.1230(a) and 80.1230(b).

(f) A small refiner approved under § 80.1340 which notifies EPA that it wishes to withdraw its small refiner status pursuant to § 80.1340(g).

[72 FR 8544, Feb. 26, 2007, as amended at 75 FR 26131, May 11, 2010]

§ 80.1340 How does a refiner obtain approval as a small refiner?

(a) Applications for small refiner status must be submitted to EPA by December 31, 2007.

(b) For U.S. Postal delivery, applications for small refiner status must be sent to: Attn: MSAT2 Benzene, Mail Stop 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. For commercial delivery: MSAT2 Benzene, 202-343-9038, U.S. Environmental Protection Agency, 1310 L Street, NW., Washington, DC 20005.

(c) The small refiner status application must contain the following information for the company seeking small refiner status, and for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners:

(1) *Employees.* For joint ventures, the total number of employees includes the